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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-206

13 ELVIA CECILIA KIRKPATRICK
1140 Old Canyon Drive
Hacienda Heights, CA 91745

A C C U S A T I O N

14 Registered Nursing License No. 396358

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about March 31, 1986, the Board of Registered Nursing (Board)
23 issued Registered Nursing License No. 396358 to Elvia Cecilia Kirkpatrick (Respondent). The
24 Registered Nursing License was in full force and effect at all times relevant to the charges
25 brought herein. It expired on June 30, 2007, and has not been renewed.

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1 **COST RECOVERY**

2 8. Section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations
4 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **CAUSE FOR DISCIPLINE**

7 **(Dangerous Use of Alcohol)**

8 9. Respondent's license is subject to disciplinary action under section 2761,
9 subdivision (a), and section 2762, subdivision (b), as a result of Respondent's use of alcohol in a
10 manner dangerous to herself and others.

11 10. In or about late 2006 and early 2007, while Respondent was employed as a
12 registered nurse at Kaiser Permanente in the East Los Angeles Medical Offices in Los Angeles,
13 California (Kaiser Permanente), the Kaiser Permanente Ambulatory Care Manager received
14 approximately three reports that Respondent had been arriving to work intoxicated and smelling
15 of alcohol. Respondent was sent home on each occasion.

16 11. In or about late 2006 and early 2007, the Ambulatory Care Manager
17 brought Respondent into her office and told her that staff had reported that she was coming to
18 work intoxicated. After the manager told Respondent that she could not come to work drunk,
19 Respondent replied, "I don't think I can stop." Respondent went on to state that she used alcohol
20 to cope with her cancer and cancer treatment. The manager told Respondent that she needed to
21 self-report to the Registered Nurse Diversion Program. Respondent failed to do so.

22 12. On or about March 29, 2007, after a manager had filed a complaint against
23 Respondent with the Board, Respondent was enrolled in the MAXIMUS Diversion Program, the
24 Board's diversion program for alcohol and drug abuse (diversion program). During the intake
25 process, Respondent admitted to having abused alcohol with developing dependence since 2001.
26 While in the diversion program, Respondent relapsed twice. On June 27, 2007, she tested
27 positive for ethyl glucuronide. She subsequently reported to the diversion program staff that she
28 had another relapse on July 4, 2007. She then missed appointments for body fluid testing

1 scheduled for July 5, 2007, and July 23, 2007.


2 13. On or about September 14, 2007, Respondent was terminated from the
3 Board's diversion program for presenting a public risk and for failing to comply with the
4 provisions of the rehabilitation plan as evidenced by her two relapses on June 27, 2007, and July
5 4, 2007. She also failed to appear at a scheduled program meeting on September 14, 2007,
6 missed numerous drug tests, failed to attend the required 12-step meetings, failed to obtain a
7 sponsor, and failed to submit the required reports to the diversion program.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Board issue a decision:

- 11 1. Revoking or suspending Registered Nursing License No. 396358, issued to
12 Respondent;
13 2. Ordering Respondent to pay the Board the reasonable costs of the
14 investigation and enforcement of this case, pursuant to section 125.3;
15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: 3/23/09

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19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant